

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 442

Introduced by Senator Machado

February 17, 2005

An act to ~~amend Section 14005.12 of~~ *add Section 14005.73 to the* Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 442, as amended, Machado. Maintenance: income levels.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and pursuant to which health care services are provided to qualified low-income persons.

Under existing law, medically needy persons, medically needy family persons, and state-only Medi-Cal persons are not entitled to receive health care services during any month in which their share of cost, if any, has not been met. Under existing law, share of cost is that amount the recipient is required to contribute toward his or her medical care, and is determined on a monthly basis.

Existing law provides for the determination of a Medi-Cal recipient's share of cost by subtracting from the recipient's income a predetermined amount deemed to be necessary for the recipient's living expenses.

Existing law requires the department to establish the income levels for maintenance need at the lowest levels that reasonably permit medically needy persons to meet their basic needs for food, clothing, and shelter, and for which federal financial participation will still be provided.

~~Existing law provides that any reduction in the maximum aid payment levels for specified years shall not result in a reduction in the income levels for maintenance. Existing law also requires the~~

~~department to seek federal authorization for maintaining the income levels for maintenance at the levels in effect on June 30, 1991, and specifies that if the approval is not obtained, that medically needy persons shall not be required to pay the difference between the share of cost as determined on payment levels in effect on June 30, 1991, and that in effect on July 1, 1991, and thereafter.~~

~~This bill would eliminate that limitation on income level determinations.~~

This bill would require, in determining the share of cost for a medically needy person or medically needy family person, a deduction from income of the difference between the income level for maintenance of need and 133% of the federal poverty level. The bill would provide that the department shall implement this provision only to the extent that federal financial participation is available.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

~~1 SECTION 1. Section 14005.12 of the Welfare and
2 Institutions Code is amended to read:~~

~~3 SECTION 1. Section 14005.73 is added to the Welfare and
4 Institutions Code, to read:~~

~~5 14005.73. (a) Commencing January 1, 2006, in determining
6 the share of cost for a medically needy person or medically needy
7 family person under subdivision (b) or (c) of Section 14005.7,
8 there shall be deducted from income the difference between the
9 income level for maintenance of need established pursuant to
10 Section 14005.12 and 133 percent of the federal poverty level.~~

~~11 (b) The department shall implement subdivision (a) only to the
12 extent that federal financial participation is available for
13 Medi-Cal benefits provided when countable monthly income is
14 determined in accordance with the method required under
15 subdivision (a).~~

~~16 (c) The department shall promptly seek any federal approval,
17 including state plan amendments, to receive federal financial
18 participation in Medi-Cal benefits determined pursuant to
19 subdivision (a).~~

~~20 14005.12. (a) (1) For the purposes of Sections 14005.4 and
21 14005.7, the department shall establish the income levels for~~

1 maintenance need at the lowest levels that reasonably permit
2 medically needy persons to meet their basic needs for food,
3 clothing, and shelter, and for which federal financial participation
4 will still be provided under Title XIX of the federal Social
5 Security Act. It is the intent of the Legislature that the income
6 levels for maintenance need for medically needy aged, blind, and
7 disabled adults, in particular, shall be based upon amounts that
8 adequately reflect their needs.

9 (2) Reductions in the maximum aid payment levels set forth in
10 subdivision (a) of Section 11450 in the 1991-92 fiscal year, and
11 thereafter, shall not result in a reduction in the income levels for
12 maintenance under this section.

13 (3) Any medically needy person who was eligible for benefits
14 under this chapter as categorically needy for the calendar month
15 immediately preceding the effective date of the reductions in the
16 minimum basic standards of adequate care for the Aid to
17 Families with Dependent Children program as set forth in
18 Section 11452.018 made in the 1995-96 Regular Session of the
19 Legislature shall not be responsible for paying his or her share of
20 cost if all of the following apply:

21 (A) He or she had eligibility as categorically needy terminated
22 by the reductions in the minimum basic standards of adequate
23 care.

24 (B) He or she, but for the reductions, would be eligible to
25 continue receiving benefits under this chapter as categorically
26 needy.

27 (C) He or she is not eligible to receive benefits without a share
28 of cost as a medically needy person pursuant to paragraph (1) or
29 (2).

30 (b) In the case of a single individual, the amount of the income
31 level for maintenance per month shall be 80 percent of the
32 highest amount that would ordinarily be paid to a family of two
33 persons, without any income or resources, under subdivision (a)
34 of Section 11450, multiplied by the federal financial participation
35 rate.

36 (c) In the case of a family of two adults, the income level for
37 maintenance per month shall be the highest amount that would
38 ordinarily be paid to a family of three persons without income or
39 resources under subdivision (a) of Section 11450, multiplied by
40 the federal financial participation rate.

~~(d) For the purposes of Sections 14005.4 and 14005.7, for a person in a medical institution or nursing facility, or for a person receiving institutional or noninstitutional services from an organization with a frail elderly demonstration project waiver pursuant to Chapter 8.75 (commencing with Section 14590), the amount considered as required for maintenance per month shall be computed in accordance with, and for those purposes required by, Title XIX of the federal Social Security Act, and regulations adopted pursuant thereto. Those amounts shall be computed pursuant to regulations which include providing for the following purposes:~~

~~(1) Personal and incidental needs in the amount of not less than thirty-five dollars (\$35) per month while a patient. The department may, by regulation, increase this amount as necessitated by increasing costs of personal and incidental needs. A long-term health care facility shall not charge an individual for the laundry services or periodic hair care specified in Section 14110.4.~~

~~(2) The upkeep and maintenance of the home.~~

~~(3) The support and care of his or her minor children, or any disabled relative for whose support he or she has contributed regularly, if there is no community spouse.~~

~~(4) If the person is an institutionalized spouse, for the support and care of his or her community spouse, minor or dependent children, dependent parents, or dependent siblings of either spouse, provided the individuals are residing with the community spouse.~~

~~(5) The community spouse monthly income allowance shall be established at the maximum amount permitted in accordance with Section 1924(d)(1)(B) of Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396r-5(d)(1)(B)).~~

~~(6) The family allowance for each family member residing with the community spouse shall be computed in accordance with the formula established in Section 1924(d)(1)(C) of Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396r-5(d)(1)(C)).~~

~~(e) For the purposes of Sections 14005.4 and 14005.7, with regard to a person in a licensed community care facility, the amount considered as required for maintenance per month shall be computed pursuant to regulations adopted by the department~~

1 ~~which provide for the support and care of his or her spouse,~~
2 ~~minor children, or any disabled relative for whose support he or~~
3 ~~she has contributed regularly.~~

4 ~~(f) The income levels for maintenance per month, except as~~
5 ~~specified in subdivisions (b) to (d), inclusive, shall be equal to~~
6 ~~the highest amounts that would ordinarily be paid to a family of~~
7 ~~the same size without any income or resources under subdivision~~
8 ~~(a) of Section 11450, multiplied by the federal financial~~
9 ~~participation rate.~~

10 ~~(g) The “federal financial participation rate,” as used in this~~
11 ~~section, shall mean 133 $\frac{1}{3}$ percent, or such other rate set forth in~~
12 ~~Section 1903 of the federal Social Security Act (42 U.S.C. Sec.~~
13 ~~1396(b)), or its successor provisions.~~

14 ~~(h) The income levels for maintenance per month shall not be~~
15 ~~decreased to reflect the presence in the household of persons~~
16 ~~receiving forms of aid other than Medi-Cal.~~

17 ~~(i) When family members maintain separate residences, but~~
18 ~~eligibility is determined as a single unit under Section 14008, the~~
19 ~~income levels for maintenance per month shall be established for~~
20 ~~each household in accordance with subdivisions (b) to (h),~~
21 ~~inclusive. The total of these levels shall be the level for the single~~
22 ~~eligibility unit.~~

23 ~~(j) The income levels for maintenance per month established~~
24 ~~pursuant to subdivisions (b) to (i), inclusive, shall be calculated~~
25 ~~on an annual basis, rounded to the next higher multiple of one~~
26 ~~hundred dollars (\$100), and then prorated.~~